



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1766 of 2021

M.Muthuvel

... Appellant

Vs.

1.P.Natarajan

2.The National Insurance Company Limited,  
Divisional Office No.II,  
Balaji Towers,  
Ramakrishna Road,  
Salem 636 007.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and decree dated 25.09.2018, in M.C.O.P.No. 2128 of 2016, on the file of the Motor Accidents Claims Tribunal, (Special Subordinate Judge No.2), Salem.

For Appellant : Mr.C.Thangaraju

For R1 : No appearance

For R2 : Mr.S.Vadivelu

**JUDGMENT**

The Appeal has been filed against the award dated 25.09.2018 made in M.C.O.P.No.2128 of 2016 on the file of the Motor Accident Claims Tribunal Judge /Special Subordinate Judge No.2, Salem.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed the petition before the Tribunal seeking compensation for the injuries sustained by him in the road traffic accident occurred on 05.08.2016.

4.During the trial, on the side of the claim Petitioner, PW1 was examined, Exs.P1 to Ex.P.9 were marked. D.W.1 and D.W.2 were examined, Exs.R1 and R2 were marked on the side of the Respondents. On the evidence side, Ex.E1 and E2 were marked and court exhibit was Ex.C1 marked.



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5. Upon considering both the oral and documentary evidence, the Tribunal has awarded a sum of Rs.2,86,076/- with interest at the rate of 7.5% per annum. Aggrieved by the same and seeking enhancement, the claim petitioner has preferred this Appeal.

6. Heard the learned counsel for the claim Petitioner/Appellant and the learned counsel for the 2<sup>nd</sup> Respondent.

7. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1<sup>st</sup> Respondent's vehicle, insured with the 2<sup>nd</sup> Respondent, are not under challenge in this Appeal. Accordingly, the findings rendered by the Tribunal that the accident took place due to the rash and negligent driving of the driver of the 1<sup>st</sup> Respondent's vehicle, insured with the 2<sup>nd</sup> Respondent, are hereby confirmed.

8. The petitioner was admitted in the Kamala Hospital, Salem as inpatient from 06.08.2016 to 11.08.2016 and at the time of accident, he



worked as a coolie. After treatment, he was discharged and he has filed the claim petition seeking compensation. The claim petitioner was referred to Medical Board and the disability certificate is marked as Ex.C1. As per the disability certificate, the percentage of disability is fixed at 15%. As per the judgment of the Hon'ble Supreme Court in **2010 (2) TN MAC 581 [Raj Kumar Vs Ajay Kumar & another]**, the Tribunal has rightly reduced the disability as to whole body at 7.5% and also taken that it resulted in functional disability to the claim petitioner. By applying the ratio laid down in *Rajkumar's case*, the Tribunal has adopted multiplier method and accordingly, awarded a sum of Rs.1,51,200/- for 7.5% disability and hence the same is confirmed.

9. Taking into consideration the period of treatment as in-patient in hospital and in the interest of justice, the amount awarded by the Tribunal at Rs.5,000/- for 'attender charges' is hereby enhanced to Rs.7,500/-.

10. Furthermore, considering the nature of injuries, the compensation awarded by the Tribunal towards Extra Nourishment, pain and sufferings and transportation are hereby enhanced to Rs.7,500/-



Rs.10,000/- and Rs.10,000/- respectively. The compensation awarded by the Tribunal at Rs.10,000/- towards loss of amenities, Rs.1,06,876/- towards medical expenses and Rs.500/- towards damages to clothes are intact and hence the same are confirmed.

11. The break-up details of the compensation is as under :

| <i>Sl. No</i> | <i>Heads under which the amount is awarded</i>                  | <i>Amount awarded by the Tribunal</i> | <i>Amount awarded by this Court</i> |
|---------------|-----------------------------------------------------------------|---------------------------------------|-------------------------------------|
| 1.            | Disability<br>[7,500x12=90,000+36000<br>(40% of 90,000)x16x7.5% | Rs. 1,51,200/-                        | Rs.1,51,200/-                       |
| 2.            | Pain and Sufferings                                             | Rs. 5,000/-                           | Rs. 10,000/-                        |
| 3.            | Loss of amenities                                               | Rs. 10,000/-                          | Rs. 10,000/-                        |
| 4.            | Medical Expenses                                                | Rs. 1,06,876/-                        | Rs. 1,06,876/-                      |
| 5.            | Transport Expenses                                              | Rs. 2,500/-                           | Rs. 10,000/-                        |
| 6.            | Extra Nourishment                                               | Rs. 5,000/-                           | Rs. 7,500/-                         |
| 7.            | Attender charges                                                | Rs. 5,000/-                           | Rs. 7,500/-                         |
| 8.            | Damages to clothes                                              | Rs. 500/-                             | Rs. 500/-                           |
|               | Total                                                           | <b>Rs. 2,86,076/-</b>                 | <b>Rs. 3,03,576/-</b>               |

In total, the claim Petitioner is entitled to a sum of Rs.3,03,576/- (Rupees Three lakhs three thousand five hundred and seventy six only).



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12. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.2,86,076/- to 3,03,576/- to the extent indicated above, alongwith 7.5% interest per annum. No costs.

(ii) the 2<sup>nd</sup> Respondent/National Insurance Company Limited is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

(v) After perusing the order passed by the Tribunal, I find that on the date of the accident, the driver of the offending vehicle does not possess badge endorsement and accordingly the order for pay and recovery made by the Tribunal is hereby confirmed. It is open to the Insurance Company to



pay the compensation to the claim petitioner at the first instance and recover the same from the first respondent / owner of the vehicle.

(vi) As per the order of this Court in C.M.P.No.3210 of 2021 in CMA SR No.16012 of 2021, the claim petitioner is not entitled for interest for the delayed period of 427 days in filing the appeal.

08.01.2024

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Index : Yes/No

Speaking/Non-speaking order

To

1.The Motor Accident Claims Tribunal Judge /  
(Special Subordinate Judge No.2), Salem.

2.The Section Officer,  
V.R.Section,  
High Court, Madras.



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**RMT.TEEKAA RAMAN, J.**

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Judgment in  
C.M.A.No.1766 of 2021

08.01.2024